

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Robert Munro Dye,	)	C/A No. 0:22-2026-SAL-PJG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b>ORDER</b>
R.J. Reynolds Tobacco Company, Inc.;	)	
Phillip Morris USA, Inc.,	)	
	)	
Defendants.	)	
	)	

Plaintiff Robert Munro Dye, a self-represented state prisoner, filed this civil action on June 24, 2022. Therefore, if a limitations issue arises, Plaintiff shall have the benefit of the holding in Houston v. Lack, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Plaintiff filed this action pursuant to 28 U.S.C. § 1915 & § 1915A. Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order dated August 16, 2022, the court authorized service of process on the defendants via the United States Marshals Service. (ECF No. 13.) Because Plaintiff is proceeding *pro se* pursuant to 28 U.S.C. § 1915, Plaintiff's time to complete service under Federal Rule of Civil Procedure 4 did not begin to run until the court authorized the issuance and service of process on August 16 pursuant to the court's established screening procedures. See Robinson v. Clipse, 602 F.3d 605, 608-09 (4th Cir. 2010) (stating that the limitations period for service under Rule 4 does not begin to run for *in forma pauperis* plaintiffs until the court authorizes service).

The summons for Defendant Phillips Morris USA, Inc. ("Phillip Morris") was returned executed by the United States Marshals. (ECF No. 17.) Plaintiff moved for default judgment against Phillip Morris on October 28, 2022. (ECF No. 24.) Phillip Morris appeared on October 31, 2022 and moved to quash service and to dismiss for insufficient service of process. (ECF No. 26.) Phillip Morris argues and shows by affidavit that the summons and complaint were served on one of Phillip Morris's outside counsel, which is not a registered agent of Phillip Morris that can accept service on its behalf.

On November 16, 2022, Plaintiff filed motions pursuant to Federal Rule of Civil Procedure Rule 4 to extend the time to serve Phillip Morris for good cause shown. (ECF Nos. 33 & 34.) Plaintiff included a new summons and an unsigned Form USM-285 for Phillip Morris. (ECF No. 35.) **Plaintiff's motions are hereby granted and the service deadline is hereby extended until February 15, 2023.**

However, the proposed Form USM-285 provided by Plaintiff is unsigned. (ECF No. 35-1.) The Clerk of Court is directed below to return the form to Plaintiff for his signature.

**Plaintiff shall have fourteen (14) days from the date of this order (plus three days for mail time) to sign the Form USM-285 and return it to the court.** The Form USM-285 must be mailed to: Clerk of Court, 901 Richland Street, Columbia, South Carolina 29201. Upon receiving the signed form, the court will reauthorize service on Defendant Phillip Morris by the United States Marshals.

In light of the court's granting Plaintiff an extension of time to effect service, Plaintiff's motion for default judgment (ECF No. 24) is denied and Phillip Morris's motion to quash service and dismiss (ECF No. 26) is dismissed as moot.

**TO THE CLERK OF COURT:**

The Office of the Clerk of Court is directed to mail a copy of this order and the deficient Form USM-285 to Plaintiff. The Plaintiff will have fourteen (14) days from the date this Order is entered (plus three days for mail time) to return a signed Form USM-285 to the Clerk of Court.

**IT IS SO ORDERED.**

December 22, 2022  
Columbia, South Carolina

  
\_\_\_\_\_  
Paige J. Gossett  
UNITED STATES MAGISTRATE JUDGE